BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

SONDRA HI	ELLINGER Claimant	
U.S.D. No. 4	175	Docket No. 165,194
0.0.D. NO	Respondent)
AND		
KANSAS ASSOCIATION OF SCHOOL BOARDS and))
U.S.F.& G.	Insurance Carriers	
AND		
WORKERS COMPENSATION FUND		

ORDER

Claimant requests review of the Preliminary Hearing Order of Administrative Law Judge James R. Ward entered in this proceeding on April 21, 1995.

ISSUES

The issue before the Administrative Law Judge was whether claimant should be granted authorization to obtain treatment from her personal chiropractor. The Administrative Law Judge denied claimant's request. Claimant then sought this review.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the argument of the parties, the Appeals Board finds:

- (1) The jurisdiction of the Appeals Board to review Preliminary Hearing findings is statutorily created by K.S.A. 44-534a. The statute provides the Appeals Board may review those preliminary findings pertaining to the following: (1) whether the employee suffered an accidental injury; (2) whether the injury arose out of and in the course of the employee's employment; (3) whether notice was given or claim timely made; and (4) whether certain defenses apply. The Appeals Board also has jurisdiction to review preliminary hearing findings if it is alleged an administrative law judge exceeded their jurisdiction. See K.S.A. 44-551, as amended by S.B. 59 (1995).
- (2) A denial of benefits in this case does not give adequate basis for determining whether the Appeals Board has jurisdiction to review this matter. The case must,

IT IS SO ORDERED.

therefore, be remanded with directions to specify the basis for the decision denying benefits.

The Appeals Board recognizes the Workers Compensation Act does not specifically require the administrative law judge to provide a statement of the basis for their preliminary hearing decisions. However, when benefits are denied and those benefits may have been denied because of a finding not subject to review, the Appeals Board cannot perform its obligations under the Act without an indication by the administrative law judges as to the basis for their decision. In the absence of such an indication, the Appeals Board has no alternative but to remand the claim directing the administrative law judge to add to the order a brief sentence or statement of the finding or findings which constituted the basis for the decision.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that this proceeding should be, and the same hereby is, remanded to Administrative Law Judge James R. Ward with instructions to state what finding or findings constituted the basis for the decision denying claimant's request for chiropractic benefits. The Appeals Board does not retain jurisdiction over this proceeding.

Dated this day of Ju	y 1995.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: Derek J. Shafer, Topeka, Kansas Frederick J. Greenbaum, Kansas City, Kansas Mickey W. Mosier, Salina, Kansas Jeffrey King, Salina, Kansas James R. Ward, Administrative Law Judge David A. Shufelt, Acting Director